IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1448 of 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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SONABEN WD/O JAGABHAI VALLABHBHAI PATEL & 3 - Appellant(s)
Versus
YUSUFBHAI KASAMBHAI TURKI & 1 - Defendant(s)

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Appearance :
MR SK BUKHARI for Appellant(s) : 1 - 4.
None for Defendant(s) : 1,
MR HARDIK C RAWAL for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 11/08/2006

ORAL JUDGMENT

1. By way of this appeal under Section 110-D of the Motor Vehicles Act, the appellants original claimants have challenged the judgement and award dated 30.12.1983 passed by Tribunal in Motor Accident Claim Petition No. 531 of 1982 whereby the Tribunal directed original opponent No. 1 and 2 to pay an amount of Rs. 4,460/- with running interest of 6% per annum.

2. It is the case of the appellants that on 29.05.1981 at about 5.00 p.m. one Jagabhai was travelling in S.T. Bus and original opponent No. 1 was driving the bus No. G.T.H. 4673. The said bus fell on the side of the road between Palin and nearby Budia. As a result of this accident he suffered injuries on spinal chord, both hands and leg and left hand was paralysed. He was taken to the Civil Hospital, Surat. He was bed ridden and suffered much pain in neck and as a result of this he was died on 28.11.1981. Therefore the legal heirs of the deceased filed claim petition claiming a sum of Rs. 80,000/- by way of compensation.

3. Learned counsel for the appellant has submitted that the awarded amount of Rs. 43,200/- on account of pecuniary loss by assessing his contribution to the family at the rate of Rs. 240/- per month and adopting 15 years multiplier. He further submitted that Jagabhai died after six months from the date of accident, the Tribunal

ought to have awarded Rs. 15,000/- more towards pain, shock and suffering.

4. Heard. I have gone through the order of the Tribunal and the documents available on record while passing the order Tribunal has observed in para 11 that the deceased died because of such injuries, but the medical opinion is against such possibility. Dr. Desai-witness has clearly stated that injuries were not such which would cause death. Further no post-mortem of dead body was got done by the appellants. Therefore appellants have, failed to establish that the death was the result of the injuries in the accident.

5. The Trial Court has not committed any error in passing the impugned award. Learned Counsel for the appellant is not able to point out anything contrary to take a different view of the matter. I am in complete agreement with the reasonings adopted and the findings arrived at by the trial court. No case is made out for

enhancement. Hence the appeal is dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*